

NEW JERSEY
CEMETERY BOARD

6/3/2003

FILED

S. H. G.

"CERTIFIED TRUE COPY"

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
CEMETERY BOARD

IN THE MATTER OF A DISCIPLINARY
ACTION AGAINST THE LICENSE OF

ANGEL LUIS RODRIQUEZ, III
Rosemount Memorial Park
License No. 47 SP 1428

Administrative Action

FINAL DECISION AND ORDER
AFTER UPL EXPLANATION

This matter was opened to the New Jersey Cemetery Board (hereinafter the "Board") on an investigation of the compliance by Angel Luis Rodriquez, III (hereinafter "Respondent") with the requirements of N.J.S.A. 8A:9-4 and N.J.A.C. 13:44J-10.1 that no person act as a cemetery salesperson unless he or she holds a valid license issued by the Board.

On or about December 13, 2002, a letter was sent to Respondent, who had applied to the Board for licensure as a salesperson at Rosemount Memorial Park, and to the cemetery, which advised that the application of Respondent had been approved and that a license would be issued upon receipt of the fee, payable within two weeks by certified check or money order.

No response having been received, a follow up letter was sent to Rosemount Memorial Park on or about January 28, 2003, advising that Respondent's temporary license had expired on December 13, 2002, and warning Rosemount Memorial Park that Respondent could not lawfully sell interment space until he paid the fee and was issued a regular license. Payment was again requested and Rosemount Memorial Park was asked to verify Respondent's continued employment with Rosemount. A cemetery salesperson cannot be licensed unless associated with a specific cemetery(ies).

On or about March 7, 2003, a third letter was sent to Rosemount Memorial Park advising that there had been no response to the previous letters and requesting once again the status of Respondent's employment with Rosemount. The third letter reiterated that Respondent did not possess a valid Cemetery Salesperson's License issued by the Board, and therefore could not lawfully be engaged in selling interment space.

On or about March 12, 2003, the Board office received a letter dated March 10, 2003 from Rosemount Memorial Park. The letter advised that Respondent was still employed by Rosemount, and was currently working as a "Sales Counselor for Rosemount Memorial Park." The license fee had still not been paid. The Board reviewed this information on April 10, 2003, and concluded that Respondent was acting as a cemetery salesperson without a valid license issued by the Board, in violation of N.J.S.A. 8A:9-4 and N.J.A.C. 13:44J-10.1.

On April 23, 2003, a Uniform Penalty Letter (hereinafter "UPL") was sent to Respondent setting forth the initial findings of the Board and offering Respondent the opportunity to settle this matter by acknowledging the violation and paying a civil penalty in the amount of \$250.00. Alternatively, Respondent was given the options of either requesting a hearing before the Board or submitting a written explanation and waiving Respondent's right to a hearing.

Rosemount submitted a written explanation dated April 28, 2003, in which it maintained that

Respondent had sent a personal check to the Board to pay his license fee, and had not received the check back. Rosemount stated that Mr. Rodriguez therefore, "assumed that the payment was received and continued selling." A supporting statement dated April 30, 2003, signed by Respondent, was attached to Rosemount's letter. Respondent asserted in the statement that he had sent a personal check to the Board on an unspecified date after December 13, 2002, and that he had thereafter assumed he was a fully licensed salesperson for Rosemount. No copy of the personal check was provided and Board records indicate that no payment was received until March 13, 2003.

Rosemount's letter also advised that Respondent had been sent to pay the license fee in person following its receipt of the Board's third letter on March 7, 2003. The fee was paid on March 13, 2003; the day on which the Board office telephoned Rosemount after receiving its letter on March 12, 2003 confirming Respondent's continued employment as a salesperson. Rosemount's letter also argued that \$250.00, the amount of penalty preliminarily assessed for the violation, was excessive and should be reconsidered by the Board.

At its meeting on May 8, 2003, the Board considered the UPL and Respondent's statement. With respect to charges that Respondent had been acting as an unlicensed salesperson between December 13, 2002 and at least May 10, 2003, in violation of N.J.S.A. 8A:9-4 and N.J.A.C. 13:44J-10.1, the Board found that there were no material facts in dispute. Accordingly, the Board finds that Respondent failed to conform with statutory and/or regulatory obligations as set forth in the UPL, and thus it concludes that a violation of N.J.S.A. 8A:9-4 and N.J.A.C. 13:44J-10.1 occurred. The Board noted that the penalty assessed is substantially less than the \$10,000.00 maximum amount which could be imposed pursuant to N.J.S.A. 45:1-25 and concluded that \$250.00 was not excessive in view of the clear direction given to Respondent in its letter dated December 13, 2003.

Based on the foregoing:

IT IS on this 3rd day of June, 2003,

ORDERED that:

1. Respondent shall pay to the Cemetery Board a civil penalty in the total amount of \$ 250.00 for the violation as set forth in the UPL and found as detailed above. Said payment shall be made by certified check or money order payable to the New Jersey Cemetery Board and shall be delivered within ten (10) days of service of this order to Susan H. Gartland, the Executive Director of the Board at P. O. Box 54036, Newark, New Jersey 07101. Failure to remit the payment required by this Order will result in the filing of a certificate of debt.

2. Respondent shall cease and desist from engaging in any of the conduct found herein to be unlawful.

NEW JERSEY STATE
CEMETERY BOARD

BY: 

Frank J. DeGeeter, Jr.
President



UNITED STATES
POSTAL SERVICE®

POSTAL MONEY ORDER

15-800
000

SERIAL NUMBER

05380208976

YEAR MONTH DAY

2003-10-10

POST OFFICE

07063

U.S. DOLLARS AND CENTS

250.00

AMOUNT TWO HUNDRED FIFTY DOLLARS & 00/100*****

PAY TO

NJ State Cemetery Board

NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS
SEE REVERSE WARNING

ADDRESS

P.O. Box 54036

FROM

Angel Rodriguez

CLERK

C.O.D. NO. OR
USED FOR

NEWARK NJ 07101

ADDRESS

25 Daniel St
Port Reading NJ

⑆000008002⑆

05380208976 Appl # 911094